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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, Colorado 80527-2400

PATENT APPLICATION

Inventor(s): Pere Obrador et al.

Application No.: 10/023,951

Filing Date: December 21, 2001

ATTORNEY DOCKET NO. 10007843-1

Confirmation No.: 7670

Examiner: James M. Hannett

Group Art Unit: 2622

Title: Remote High Resolution Photography and Video Recording Using a Streaming Video as a View-Finder

Mail Stop Amendment
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL LETTER FOR RESPONSE/AMENDMENT

Transmitted herewith is/are the following in the above-identified application:

- ☐ Response/Amendment
☐ New fee as calculated below
☐ No additional fee
☒ Other Reply Brief

- ☐ Petition to extend time to respond
☐ Supplemental Declaration

Fee\$

CLAIMS AS AMENDED BY OTHER THAN A SMALL ENTITY						
(1) FOR	(2) CLAIMS REMAINING AFTER AMENDMENT	(3) NUMBER EXTRA	(4) HIGHEST NUMBER PREVIOUSLY PAID FOR	(5) PRESENT EXTRA	(6) RATE	(7) ADDITIONAL FEES
TOTAL CLAIMS		MINUS		= 0	X \$50	\$ 0
INDEP. CLAIMS		MINUS		= 0	X \$200	\$ 0
<input type="checkbox"/> FIRST PRESENTATION OF A MULTIPLE DEPENDENT CLAIM					+ \$360	\$ 0
EXTENSION FEE	<input type="checkbox"/> 1st Month \$120	<input type="checkbox"/> 2nd Month \$450	<input type="checkbox"/> 3rd Month \$1020	<input type="checkbox"/> 4th Month \$1590		\$ 0
OTHER FEES						\$
TOTAL ADDITIONAL FEE FOR THIS AMENDMENT						\$ 0

Charge \$ 0 to Deposit Account 08-2025. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

☒ A duplicate copy of this transmittal letter is enclosed.

I hereby certify that this paper is being
transmitted to the Patent and Trademark Office
facsimile number (571) 273-8300.
Date of facsimile: 2/15/07

Typed Name: Natalie King

Signature: 

Rev 10/00a(Trans/Amo/Fax)

Respectfully submitted,

Pere Obrador et al.

By 

James D. Shaurette

Attorney/Agent for Applicant(s)

Reg No.: 39,833

Date: 2/15/07

Telephone: 509/624-4276

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Date: 2/15/07

Telephone: 509/624-4276

Rev 10/06a(TransAmdFax)

FEB 15 2007

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Date of Deposit: 2/15/2007

Typed Name of Person Mailing Paper or Fee: Natalie King

Signature: 

PATENT APPLICATION
DOCKET NO. 10007843-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

INVENTOR(S): Pere Obrador et al.

SERIAL NO.: 10/023,951

GROUP ART UNIT: 2612

FILED: December 21, 2001

EXAMINER: J. Hannett

SUBJECT: Remote High Resolution Photography and Video Recording Using a Streaming Video as a View-Finder

MAIL STOP FEE AMENDMENT
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA VA 22313-1450

SIR:

Reply Brief

For at least the reasons presented in the Brief of Appellant ("Brief") and the arguments provided below, Appellants respectfully request reversal of the rejections of the claims and allowance of the respective claims.

Referring to pages 24-25 of the Examiner's Answer ("Answer"), the Office addresses section A of the Brief of Appellant. Appellants respectfully submit that the Office has failed to meet its burden of establishing a proper factual basis for the combination of Ramasubramanian with Mottur and the 103 rejection is improper for at least this reason.

Appellants respectfully disagree with the characterization of Appellants' argument in section A in the Examiner's Answer at page 24. Appellants did not

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argue that Mottur only transmits high resolution video but stated that Mottur discloses arrangements which communicate uncompressed high resolution video data including for example a high-definition digital television per paragraph 0023 and transmission of uncompressed audio and video data using high bandwidth media such as fiber optical cable. Appellants respectfully submit that the solution of Ramasubramanian regarding communicating high resolution images in low bandwidth communications arrangements are irrelevant to the high bandwidth and/or high definition embodiments of Mottur as set forth in the Brief.

Furthermore, Appellants respectfully submit that the solution of Ramasubramanian for communicating high resolution images in low bandwidth embodiments is contrary to explicit teachings of Mottur and would adversely impact specifically disclosed aims of Mottur. In particular, Mottur explicitly states at paragraph 0005 that Mottur is concerned with solving problems of reducing *"choppy broadcasts", making video seamless and reducing or minimizing delays between successive images.* Provision of snapshots in Mottur per Ramasubramanian would clearly result in choppy broadcasts with discernable delays between frames and usurp bandwidth further degrading video operation of Mottur in low bandwidth configurations (and which bandwidth would otherwise be available for providing seamless video in accordance with the aim of Mottur). Appellants respectfully submit that the combination to achieve results which are not of concern of Mottur (i.e., communicating snapshots) while providing choppy video with delays contrary to aims of Mottur of providing seamless video illustrates the inappropriateness of the 103 rejection. Appellants respectfully submit that the combination proposed by the Office is non-sensical in high bandwidth arrangements of Mottur which already provide uncompressed high capacity communication, or destroy the purpose of low bandwidth arrangements of Mottur of providing seamless video and/or reducing or minimizing delays in broadcasts of information per paragraph 0005 of Mottur.

Appellants also reiterate that Mottur is not directed towards taking snapshots but making real time camera adjustments to changes occurring during real time video capture of a subject (e.g., to keep the subject within the field of view). The Office has improperly relied upon Applicant's disclosure in combining the teachings

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of Ramasubramanian directed towards snapshots of playback from previously stored video files with the Mottur embodiment of generating and controlling live video capture of a scene. More specifically, without improper reliance upon Appellants' disclosure, there is insufficient factual basis to modify the live video capture and control operation of Mottur to accommodate snapshots of playback of recorded video of Ramasubramanian. In addition, the mere fact that references can be combined is insufficient without proper factual basis for combining the references. MPEP §2143.01III (8th ed., rev. 5) *citing In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

MPEP 2142 (8th ed., rev. 5) provides that the Office has the burden of establishing a proper prima facie 103 rejection. The examiner must establish a factual basis to support the legal conclusion of obviousness. See In re Fine, 837 F.2d 1071, 1073, 5 USPO2d 1596, 1598 (Fed. Cir. 1988). Reasons for the decision to combine references must be articulated. In re Lee, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002). It is insufficient to rely on the examiner's own understanding or experience, or the Examiner's assessment of what would be basic knowledge or common sense but rather must point to some concrete evidence in the record in support of these findings. In re Zurko, 258 F.3d 1379, 1386, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

At page 25 of the Examiner's Answer, the Office states that the combination is appropriate in order to allow a user to receive a snapshot of the video that a size and quality that is not dictated by the bandwidth between the video server. Appellants respectfully submit that the *factual basis* provided by the Office is deficient inasmuch as Mottur is not directed toward obtaining snapshots of stored video files but with respect to providing an operator with control of a camera to respond to changes during capture of live video and providing seamless video without delays. The Ramasubramanian teachings of providing snapshots of increased resolution are redundant to the high bandwidth embodiments of Mottur, and the Ramasubramanian teachings would degrade performance of live video of low bandwidth constructions of Mottur contrary to the teachings of Mottur for reasons of no concern to Mottur and destroying the purpose and directly contradicting the aims of Mottur set forth in paragraph 0005 to provide seamless

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video with minimal delay. The factual basis is deficient and Applicants respectfully submit the Office has failed to establish a proper prima facie rejection.

The Office on page 24 of the Examiner's Answer alleges that one would look to improve communications over a low bandwidth communications line. Appellants respectfully disagree. Ramasubramanian is directed towards providing snapshots of increased resolution during playback of previously recorded low resolution video while Mottur is directed towards realtime, seamless, minimal delay monitoring of real live video captured using a camera. Appellants respectfully submit that it is non-sensical for Mottur to look to Ramasubramanian to improve communications when the solutions of Ramasubramanian are irrelevant to Mottur and directly contradict the system of Mottur to provide seamless video with minimal delay.

The desirability alleged by the Office spanning pages 24-25 to enable capture of snapshots of low resolution previously recorded video playback does not support the modification of Mottur proposed by the Office inasmuch as the purpose of Mottur to provide seamless video with minimal delay would be destroyed with no apparent benefit to the Mottur system resulting from the combination.

Appellants respectfully request reversal of the rejection of the claims for these reasons and the reasons set forth in section A of the Brief.

Referring to pages 25-26 of the Examiner's Answer, the Office addresses section B of the Brief of Appellant. Appellants respectfully submit that positively-recited limitations of the claims are not taught even if Ramasubramanian is combined with Mottur. Furthermore, the taking of judicial notice is misplaced. Appellants respectfully submit the 103 rejection is improper for at least these reasons.

The claims 1-10, 22-23, 26-27, 35-36, 38-40, 44 and 45 recite *generating a video of a scene using a photo-video acquisition device individually comprising a camera, acquiring a high resolution photograph using the video streamed from the device comprising a camera as a view-finder and processing and transmitting the video and the high resolution photograph. Appellants submit that the transmission of previously recorded video stored in a file 104, 134, 140 of Ramasubramanian (even if construed to be live video) fails to teach or suggest the limitations of*

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generating the video using a camera or acquiring the photograph using the video streamed from the camera as a view finder.

At page 25 of the Action, the Office relies upon judicial notice in support of the rejection and to cure the deficiencies of the combined teachings of the prior art with respect to the explicitly claimed limitations. Appellants respectfully submit that the reliance upon judicial notice to cure the deficiencies of the prior art (even if the multiple references are combined) illustrates the tenuous nature of the 103 rejection. As set forth below, the reliance upon judicial notice is improper and the 103 rejection is improper. In accordance with MPEP §2144.03 (8th ed., rev. 5), Appellants respectfully traverse the reliance upon judicial notice taken in the Examiner's Answer in support of the rejection. Ramasubramanian teaches two embodiments in Figs. 1A and 1B as noted by the Office corresponding to a real time delivery system and precompressed delivery system. Both embodiments of Figs. 1A and 1B use a video file 104, 134, 140 of previously captured and stored video as a source of the video which may then be compressed on-the-fly (Fig. 1A) or precompressed (Fig. 1B). *Regardless of the timing of the compression, the embodiments of Ramasubramanian are directed towards playback of previously generated and stored video stored in files 104, 134, 140.*

Referring to page 25 of the Answer, the Office states that it is well known that real-time delivery of video is live delivery. The Office further alleges at page 26 of the Answer that since the video of Ramasubramanian can be transmitted in real-time that the video must be generated using a camera and does not originate from a pre-recorded video on a video server. Appellants respectfully submit the Examiner has tortured the explicit teachings of Ramasubramanian in support of the rejection and apparently to support the taking of Official Notice.

Initially, Appellants have electronically searched Ramasubramanian and the only teaching in Ramasubramanian of a camera is the camera button which a user depresses to take a snapshot of the previously recorded and stored video (see col. 5, lines 20+ of Ramasubramanian). Ramasubramanian is void of teaching *capturing video of a scene using a camera* or the combination of *acquiring snapshots of video streamed from a camera acting as a view-finder* as explicitly claimed. There is absolutely no objective evidence in support of the bald allegations

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of page 26 of the Examiner's Answer that the video of Ramasubramanian "must be generated using a video camera and does not originate from a pre-recorded video on a video server." The embodiments of Ramasubramanian fail to teach streaming of video from a camera and to the contrary clearly disclose *playback of video which was previously recorded and stored in video files 104, 134, 140 which are stored using video storage 124 or 144 of respective servers 102, 132 of Ramasubramanian*. Appellants respectfully submit that the Ramasubramanian teachings regarding playback of previously stored video fails to teach the above-recited claim limitations and provides no support for the taking of Official Notice.

MPEP 2144.03A gives examples of limitations which are considered well known, such as when new audio information is recorded then the old information is erased, or when a heat requirement is varied it is well known to vary a flame. The MPEP states that Official Notice is proper when the *teachings are readily verifiable* (e.g., use of a control in bacteriology). MPEP 2144.03B (8th ed., rev. 5). MPEP 2144.03A and 2144.04E make clear that *Official Notice is proper with respect to facts which are of notorious character and serve only to fill in the gaps in an insubstantial manner*. Appellants respectfully submit that entire positively recited limitations regarding generating video using a camera in combination with the other claimed limitations are not notorious and do not fill in gaps in an insubstantial manner but are rather directed toward entire limitations which are not found anywhere in the prior art including the combination of plural references Mottur and Ramasubramanian.

Appellants respectfully submit that claims are analyzed in the context of the combination of the various separately stated limitations, and not with respect to the limitations individually. More specifically, Appellants respectfully submit the Office has inappropriately disregarded the combination of limitations of the claims and improperly focused upon the limitations taken individually. The question under 35 U.S.C. §103 is not whether the differences between the prior art and the claims would have been obvious, but whether the claimed invention *as a whole* would have been obvious. *Stratoflex, Inc. vs. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871, 877 (Fed. Cir. 1983); M.P.E.P. §2141.02 I (8th ed. Rev. 5).

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In summation, Appellants respectfully submit that the reliance upon judicial notice is improper and even if taken to establish that the delivery of previously stored video is transmission of live video, such taking fails to disclose the claimed acquiring the photograph using a video streamed from the device comprising a camera as a view-finder. The explicit teachings of Ramasubramanian disclose playback of previously recorded video from stored files 104, 134, 140 and Appellants respectfully submit the taking of Official Notice to construe the teachings of Ramasubramanian regarding playback of previously recorded video to be streaming of video from a camera as a viewfinder is improper and contrary to the above-recited authority as well as the explicit Ramasubramanian teachings.

Appellants respectfully request reversal of the rejection of the claims for these reasons and the reasons set forth in section B of the Brief.

Referring to page 26 of the Examiner's Answer, the Office addresses section H of the Brief of Appellant. Appellants respectfully submit that the Office has failed to meet its burden of establishing a proper factual basis for the combination of Suzuki with the teachings of Ramasubramanian and Mottur and the 103 rejection is improper for at least this reason.

The claims 36 and 45 recite the *communications channel and the pipeline comprise different physical media configured to communicate electrical signals in parallel*. Appellants respectfully submit that the allegation that the combination of Suzuki is appropriate so that the control and video signals can be transmitted on different lines in order to prevent cross talk in order to improve image quality is inaccurate and/or insufficient factual basis to support the combination of the teachings of the numerous references in support of the rejection. In particular, there is no objective evidence that the numerous disparate teachings may be combined to provide any operable arrangement or that any improvement or advancement results from the combination of disparate configurations of Mottur, Ramasubramanian and Suzuki. Further, Applicants respectfully submit that the cross-talk solutions of Suzuki have not been demonstrated to be applicable to the Mottur and Ramasubramanian arrangements which are void of any issues with respect to cross-talk as set forth in the Brief.

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The Office at page 26 of the Answer relies upon the teachings of col. 5, lines 1-14 of Suzuki as allegedly providing evidence in support of the combination. Appellants respectfully submit the Office has misinterpreted the teachings of col. 5 of Suzuki and the factual basis for combining Suzuki is deficient.

More specifically, col. 5 of Suzuki states in order to avoid influence on the video signal by cross-talk, the control data VIDSb (from board 200 to camera head 100) *is transmitted for the same period of time* as that of the control data VIDSa (from camera head 100 to board 200). The teachings further state that by transmitting both control data VIDSa and b at *a non-video period of time*, it is prevented that control data VIDS exerts an adverse influence on the video signal as noises. Accordingly, as recited in col. 5, it is the *timing of the transmission of the control data VIDSa and b during non-video periods which reduces cross-talk* as opposed to the allegation of the Office on page 26 that transmission of video on an exclusive cable different from the cable that carries the control data decreases cross talk and improves video signal.

Appellants respectfully submit there is no evidence of record that the arrangements of Mottur and Ramasubramanian suffer from issues of cross talk for which teachings of Suzuki could be applicable to resolve. There is no evidence of record that the provision of separate cables of Suzuki would reduce cross talk (even if crosstalk existed in Mottur or Ramasubramanian) or provide any other improvement to the arrangement of Mottur or Ramasubramanian. Finally, the teachings of Suzuki for controlling cross-talk refer to *controlling the transmission of control data to periods of non-video periods of time to reduce cross-talk* as opposed to implementing the claimed arrangement defining that the communications channel and pipeline comprise different physical media as positively claimed. The Office has identified no proper evidence as to why the separate connections of Suzuki are applicable to the teachings of Mottur or Ramasubramanian. Appellants respectfully submit that the Office has failed to establish a proper requisite factual basis for combining the disparate teachings of the numerous prior art references and the Office has failed to meet its burden of establishing a proper 103 rejection.

Appellants respectfully request reversal of the rejection of the claims for these reasons and the reasons set forth in section H of the Brief.

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Reversal of the rejections of the claims and allowance of the claims is respectfully requested for at least the reasons discussed herein and the reasons set forth in the Brief of Appellant.

Furthermore, Appellants respectfully submit that the respective claims are allowable for the numerous additional reasons set forth in the other sections of the Brief which were not addressed by the Answer.

The Examiner is requested to phone the undersigned if the Examiner believes such would facilitate prosecution of the present application. The undersigned is available for telephone consultation at any time during normal business hours (Pacific Time Zone).

Respectfully submitted,
Pere Obrador et al.

By



James D. Shaurette

Reg. No. 39,833

Date: 2/15/07

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